

THE  
T R I A L  
OF  
THOMAS HARPER.

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PRICE, SIX-PENCE.



THE  
TRIAL  
OF  
THOMAS HARPER,

FOR  
Shooting THOMAS BRIGGS,

OF  
*Lakenbeath* in the County of *Suffolk*;

At the Lammass Assizes,

HOLDEN AT

*Bury St. Edmund's*, in the said County,

BEFORE

Sir WILLIAM HENRY ASHHURST, Knt.

Containing the whole of the Evidence, together with  
Mr. SERGEANT ADAIR's elegant Address to the JURY  
on opening the Cause: and the learned JUDGE's Charge to  
the JURY.

Taken in Court by Mr. HOBART, Solicitor, *London*.

THE SECOND EDITION.

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PRICE, SIX-PENCE.

*Entered at Stationers Hall; whoever pirates it, will be prosecuted.*







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Mr. Sergeant A D A I R,  
C O U N S E L *for the* C R O W N.

GENTLEMEN of the JURY,

*THIS is an Indictment for the Murder of a Mr. BRIGGS. A crime of the most heinous nature, in which there were others accused with the prisoner at the Bar. The share they had in this atrocious business will be the object of a future enquiry.*

*The murder was committed by the boy you see there, who from his tender years, we could not have expected such a thing from his hand.*

*Gentlemen, the evidence itself will be very short : it will consist of the declaration of Mr. Briggs himself, with that evidence which declares the mode and manner in which he was shot ; I say, with that you will connect the confession of the boy, when he was taken up, and when before the Coroner. It*

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has

has been thought very important to society that a strict enquiry should be made after the perpetrators of this horrid murder. The boy, you may suppose, purely from his tender years, that he must be the instrument of another: who that was, is not now the subject of enquiry.—I stated to you, that from the declaration of the deceased, the mode and manner in which he was shot was made known: but there is a circumstance which I think is proper for me to mention; the deceased had a cow, which happened to stray on the premises of Mr. Benstead; Mr. Benstead set so much damage that the deceased would not pay it: Benstead therefore pounded the Cow; but there being no regular pound, it was at first suffered to go at large; a little before this murder was committed it was thought proper to remove this Cow into a place opposite the window of an outhouse which the deceased used to pass as he came to give the Cow hay and water. The day before the murder was perpetrated some burdles were got, and the Cow was pounded up, so that when Briggs came to feed it, he might be within the range of any fire arms that might be used in that house.—There is another circumstance which you should attend to; that is, there was a door in the outhouse, which was, a little before this murder, boarded up: there was a hole left in this door that a gun might be put through, and that a person could take an aim at any thing that passed. That Briggs was shot from this place we shall prove by the declaration of the deceased: for as soon as he came within reach, he was shot from this door, or window. This excited the alarm of the neighbourhood; the deceased was found in the highway by his friends;

friends; he then made the same declaration, which was afterwards reduced to writing, and signed by him, and witnessed by the persons present at his making the declaration. This, Gentlemen, will be admitted as evidence. You will see, that this boy was found to be the instrument in this murder: for upon inquiring at Benstead's house, where Benstead was, he was not to be found at first; but, after searching the house for some time, upon removing a Bureau, which was set before the place they got in at, old Benstead and this boy were found concealed upon a false cieling. Upon the boy's being taken out of the place, he confessed with contrition, what he had done: this confession you must admit as evidence: but I should lay before you, that the confession alone will not be admitted, as it has always been thought right not to deprive a prisoner of any advantage he may have. I shall only say, under his Lordship's direction, that I have nothing to do but to bring his confession; but I shall bring the evidence of the dying man's declaration, which corroborates the boy's confession, as I had stated to you before, that the deceased was shot, as he declared from that house; which agrees with the prisoner's confession when he was apprehended; and with that more regularly made, when before the Coroner's inquest: and we shall prove that this Confession was free and voluntary: we shall produce the evidence of the man who found Mr. Briggs lying in the road, and we shall bring the declaration which he himself made and signed when he was going to appear before his God, we shall then call a witness to prove that the boy was found concealed in the cieling, and that when he was brought out, he made a free and voluntary confession.



MATTHEW TAYLOR, *sworn.*

**D**ID you know the late Thomas Briggs?  
Yes.

Do you remember seeing him on the 29th of July last?—Yes.

Where did you see him?—I saw him come up in the foot-path, in the dove-house-close.

How far is that from where he lived?—I cannot tell how far it is.

Where did he live?—He lived at Lakenheath.

When you saw him, in what condition did you find him?—He was lying on the ground.

Did you speak to him?—I went to him and asked him what was the matter.

Did he bleed?—Yes. When I was coming up to him, he was leaning on the gate: I saw him over it, and I saw the gate sway against him; he then laid himself down.

What did he say to you?—He told me he was shot by some of Benstead's people from the cow-house.

Did he call it by any particular name?—No, he did not.

Did he say any thing about who shot him?—He never mentioned a word who it was shot him.

WILLIAM

WILLIAM GATHERCOLE, *sworn.*

You lived with Benstead?—Yes.

Do you remember the morning that Briggs was shot?—Yes.

Did you see him that day?—Yes, I saw him that day.

Did you see him carry water to the cow?—Yes.

When?—The day that he was shot, I saw him set away the pail.

Did you see him at the time he was shot?—No; but I saw him soon after he was shot.

How soon after?—I heard the gun go off: I ran, then I saw Briggs as I was running.

Where did you see him?—As I was running I saw Briggs come out from behind the cow-house.

Do you know where Briggs's cow was?—Yes: he was coming from the cow when I saw him.

Did you hear him cry out?—Yes.

What did he say?—I heard him cry out; but I could not tell what he said.

Did he walk easy after you saw him?—I saw him by the fall-gate, taking up the foldings of his coat in his hand, and walking

ing strangely, in such a manner as I never saw him walk before.

Did he fall down?—No, not at first. I saw him walk all the way down of Dovehouse Close; as soon as he was over a little bridge, I saw him lie down.

Did you see him at any time after that?—I saw him against that little bridge when he was laid down, and saw when he lay there, that his hat was off.

Did you see him any more?—I ran away, as I was very much frightened.

WILLIAM BROOKS, *sworn*.

Do you remember Briggs's cow being impounded by Benstead?—Yes.

At first it was, I believe at large?—I do not know.

Do you remember your master's ordering you to get some hurdles?—Yes.

Where were they placed?—They were placed by the cow-house.

Were they to put the cow in?—Yes.

You remember the window at the cow-house?—Yes; a lattice.

Did you observe any thing at the window?—No.

Did not you, the night before Briggs was killed, see a door put up against the window?—There was some boards.

Was



Was not there a hole left?—Yes.

You helped your master to put the cow within the hurdles?—Yes.

After Briggs was shot, did you observe the door?—Yes, I saw the hole where the the gun was put through.

Did you observe any thing there?—I saw the marks of some gunpowder against the door.

By the marks of the gunpowder, you suppose the gun was put through that hole?—Yes.

Did you see any blood?—I saw some blood against the gate.

Upon the gate do you mean?—No, close by the gate, upon the ground.

Do you remember seeing the prisoner with a gun at any time?—Yes, I saw him with a blunderbuss.

What day was it?—It was before Briggs was shot.

How many days before?—It was some weeks before.

Did he say any thing to you, when he had the blunderbuss?—He said if any body came on his master's premises, he would ask him who he was, and if he did not tell him, he would shoot him.

Did you see this blunderbuss in his possession at any future time?—No, I did not.

MARY

MARY HORN, *sworn.*

You live with Mr. Benstead?—Yes.

You remember Briggs being shot?—Yes.

Did you hear any noise of a gun that morning that Briggs was shot?—Yes.

What time was it?—It was after breakfast, and before dinner.

Did you see Harper, the prisoner, that day?—Yes, I saw him come into the back hall door.

When was it?—It was after the gun was let off.

How soon after?—Almost directly.

After you heard the gun go off, did you hear any other noise?—I heard the shrieks of a man.

Did you see any body?—I just saw a man pass the corner of the cow-house.

Do you know who the man was?—I thought it was Mr. Briggs.

Where was your master?—He was up at the hall chamber window.

Did you see the prisoner come in?—I saw him come into the back-hall door, and I saw him go up into the study.

Did any body go in with him?—Benstead followed him.

Who went in first?—Harper went in, and Benstead went to him, and shut the door. How

How long did they continue there together?—They continued there together, till dinner, except the time that Harper went to set the child on the horse.

Who let Harper in?—My master let him in.

What time was dinner ready?—Dinner was not ready till one o'clock.

Did Harper stay all the time?—He stayed all the time, till he went to set the child on the horse, then he came back again, and stayed till dinner was ready.

Was any thing done to the door?—The back-hall door was bolted when they came in the last time.

After this did you see Harper, the prisoner?—I never saw any thing more of him, till I saw him at the Bell the next day.

THOMAS MORTLAND, *sworn*.

You saw Mr. Briggs when lying in the highway!—Yes, I saw him when he was first found.

Where did you see him?—At the bottom of the close.

What condition was he in?—His waistcoat was unbuttoned, and covered with blood. I was very much frightened, I thought he was drawing his last breath.

Were you present when he made any declaration



declaration? —Yes.

Did you sign it?—Yes.

Look at this.—Is this your hand writing.---That is my own hand writing.

Was it signed by the deceased?---Yes: that is his mark, as he could not write his name.

The declaration read.——Signed the mark of Thomas Briggs.

‘ That on Friday 29th. July, about 11 o’clock, I Thomas Briggs the elder, went to Unley hall, to water my cow, when I was shot, out of the cow-house, at the distance of about 5 or 6 yards: I saw no person, but I shrieked *Murder*. Soon after I saw old Benstead look out of the window, who inquired what was the matter: I told him I was shot. Through loss of blood, I was so faint that I could not get home.’

Were you present when the house was searched?—No: I was desired to go to the Justices.

You was one of the Jury on the inquest?—Yes.

FRANCIS THOMPSON, *sworn:*

Were you employed to search Benstead’s house?—Yes.

When did you go?—About 5 hours after

after the murder was committed ?

Who went with you ?

Where did you go to search ?—Went to Benstead's house.

What did you find there !—We could find no man for some hours.

Did you find any guns ?—I found three.

Did you find that which you have in your hand ?---I found this in the kitchen.

Was it loaded ?---I found this loaded with little pieces of bullets.

Were the other guns loaded --- They were not.

Did you find any body after that time ?

I found the elder Benstead and the prisoner concealed in a false ceiling.

How many hours was that after you went ?---I went in between 6 and 7, and found them between 10 and 11.

Were they together ?---Benstead came out first and denied the boy's being there. I sent some men in, who dragged him out.

What size was the hole where they got in ?---It was about 3 feet high, and about 15 inches wide.

Was there any thing put at the entrance of the hole to conceal it ?—Yes.

What was it ?----There was a bureau set before it, and a map in a frame put against the hole.

What

What did you do with them?—We took them to Lakenheath before a magistrate.

Did you take them before a magistrate directly?—Not that night, as it was too late; we took them before a magistrate the next day.

Mr. WM. STED. GEDGE, Surgeon, *sworn*.

You are a surgeon?—Yes, Sir.

You went to see Mr. Briggs, the deceased?—Yes.

What wounds had he?—The wound that I first discovered was just by his collar-bone; he had another behind his shoulder, and another in his arm.

Were they even wounds, as if done with a bullet?—They appeared even wounds.

Do you suppose those wounds to have been the cause of his death?—They were the cause of his death there is no doubt of it.

SAMUEL WARD, *sworn*.

You are coroner for the liberty?—Yes.

You held a court of inquest on this murder?—Yes, Sir.

Was the prisoner, Harper, brought before you?—Yes.

What



What did he say?—I asked him what he had to say, respecting the deceased Briggs.

Before he told you any thing, did you tell him it would be of use to him to confess?—No, my Lord.

Was there no promise of any kind made him?—Not any: I asked him if what he was going to say, was of his own free-will and consent: he told me it was. This is the examination, which I reduced to writing.

Did you administer an oath to him?—I did not.

Is that his mark?---Yes.

*(The confession was then read.)*

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## *The JUDGE's Charge to the JURY.*

*GENTLEMEN,*

THE prisoner is charged with the murder of Thomas Briggs, which also extends to charge two other persons (one of whom is the master of the boy) of being aiding, abetting, and counselling this boy to commit this murder. For prudential reasons it has been thought proper to call only on this boy, and the reasons that induced them so to do are very proper.

Before any part of their conduct can be inquired into, it is proper to dispose of the fate of  
this

this boy. From the evidence that has been produced to you, you are to decide his fate. I must tell you, you are not to be shocked at what may be the consequence of your verdict; but you must discharge your duty to your country: You are to decide by the evidence that has been brought, whether this boy is guilty of the crime laid to his charge.

In order to bring home this heinous charge, many witnesses and pieces of evidence have been brought before you. The first is,

Matthew Taylor: he states to you, that he saw the deceased lie wounded, almost in the agonies of death, and that he heard Briggs say, that some of Benstead's people had shot him, through the lodge. The next witness,

William Gathercole, says, he lived with Benstead, that he saw Briggs the day he was shot: he saw him immediately after he was wounded; heard him shriek out; that he saw him walk to a gate, and then lie down.

William Brooks, the next witness, says, that the deceased Briggs's cow was impounded by his master, Benstead, the elder; that his master bade him put the cow within the hurdles; that he saw the hole in the window, where the gun was put through, and the marks of the gunpowder: he says, that he saw the prisoner have the blunderbuss in his hands, sometime before Briggs was shot; and that the prisoner said, "If any man come on the premises, I will ask him who he is; if he will not tell me, I will shoot him."

Mary Horn, is next called: She says, that  
on

on the morning that Briggs was killed, she, after breakfast, heard the noise of a gun; that she saw the glimpse of a man pass, whom she thought to be Briggs; that the boy went up into his study, and Benstead the elder went to him: that they shut the door, and continued together till dinner, except when the prisoner went to set a child on a horse; that the back door was barred when the prisoner came in the second time.

Thomas Mortland, the next evidence, says he saw Briggs; lying on the ground wounded; that he made a declaration, which this person reduced to writing, and the deceased signed it.—The declaration is this; “That  
“on Friday 29th. July, about 11 o’clock,  
“I Thomas Briggs the elder, went to Unley  
“Hall, &c.

Francis Thompson says he searched Benstead’s house the day the murder was committed, about 5 hours after the transaction; that he found three guns in the kitchen, one of them was loaded with small bullets; but the others were not loaded; that after 4 or 5 hours search, they found, in the hole of an old cieling, Benstead the elder; he came out of the hole; he denied knowing any thing of the boy; but they found him there, and drew him out.

Mr. Gedge, the surgeon, was called, he tells you that the wounds were the cause of his death. The next witness is the coroner.

Mr. Samuel Ward, who tells you that, at the taking of the inquisition, he asked the prisoner what he had to say touching the death of  
Briggs



Briggs : he says, that he made him no promises, made use of no threatenings, but left it to him to say what he pleased : what he said was reduced to writing, and delivers to you a most circumstantial evidence : if means had been used to persuade or intimidate the boy, I would not have admitted it as evidence ; but as no foul play was used to obtain this confession, it can be admitted as evidence. That a man was killed, is certain : the boy being in possession of a gun before the murder, being concealed with his master in a place which no ingenuity could have thought of, with all these suspicions, to dispense justice, and to acquit myself to my own conscience, I must not have directed you to acquit him ; but this confession is full and satisfactory, and upon this evidence you are to decide.

The Jury, without quitting the court, found him GUILTY.

He was accordingly condemned to suffer death ; but was afterwards reprieved ; and admitted as an evidence against Roger Benstead the elder ; who was tried last Lent Assizes, received sentence of death, was executed on the Monday following, and has been since hung in chains on Undley Common near Lakenheath, where the murder had been committed.

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F I N I S.

